

Village of Irvington
Zoning Board of Appeals

Minutes of Meeting held December 19, 2000

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, December 19, 2000, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members were present:

Louis C. Lustenberger, Chairman
Bruce E. Clark
George Rowe, Jr.
Paul Giddins

Mr. Lustenberger acted as Chairman and Mr. Rowe as Secretary of the meeting.

There were two new matters on the agenda:

Case No.

2000-23	Mr. & Mrs. J & J Giamelli - 5 Cindy Lane, Irvington, NY (Sheet 13; Lot P131H)
2000-24	Mr. & Mrs. John Lubina - 3 Hudson View Park, Irvington, NY (Sheet 10B; Block 229; Lot 50A)

Lubina (heard first)

Mr. and Mrs. Lubina appeared in support of the application. The application seeks permission to build an addition to their existing 2 ½ story house, the addition to extend to the north, and to invade the rear yard setback limits by approximately 800 square feet. The Building Inspector had denied a building permit.

The Lubinas presented a site plan, prepared by Opacic Architects, North Astor Street, Irvington, New York, together with drawings showing basement and first floor plans, second floor plan, roof plan and exterior elevations. A letter dated November 30, 2000, from the architects submitted to the Board outlined the reasons for the application.

Two neighbors to the north, Michael Ribicic and Aubrey Woods, appeared in opposition to the request, primarily on the grounds that a wall proposed by the applicants as well as the building itself would likely constrict the flow of Sunnyside Brook which flows between the properties of the applicants and the two objectants. They noted that the brook floods regularly, and a

constriction of its flow would exacerbate the problem. A series of photographs were presented to show the location of the brook in relation to the properties.

The Chairman inquired as to whether the properties were located in a flood plain, and, being informed that they were, advised that the applicant would have to clear their application with the Planning Board, for which the Village Engineer is a consultant, before the application could be considered. The application was marked off the calendar without prejudice.

Giamelli

Mr. Giamelli had previously obtained ZBA approval to erect a fence facing Broadway, a variance having been necessary because the fence would be located in the Broadway Buffer. Thereafter, the Giamelli's sought approval of the Board of Architectural Review. That board refused to approve the fence, and the building inspector refused a building permit. The gravamen of the ARB objection appears in the following excerpt from the minutes of the meeting of the ARB held August 14, 2000.

... "The ARB feels that both the style and height of this fence are not appropriate along Broadway and that it would not be in the best interests of the village. Members of the ARB commented that a black wrought iron fence to match the wrought iron gate would be far more appropriate in that location. And there was also concern that the combined height of the 4'-0" high stone wall and a 6'-0" high fence would appear to be too high, and would be out of character with other walls and fences along Broadway in Irvington. A motion was made to disapprove the solid board fence as shown at 6'-0" high along Broadway for the above stated reasons. The motion was seconded, and the ARB unanimously voted to disapprove this portion of the Application."

Mr. Giamelli noted that the ARB had approved a fence identical to the fence proposed for 3 sides of his property, and argued that there could hardly be a bona fide objection to the style. Photographs of the fences were presented to the Board. He also pointed out that a fence 6 feet high is permitted by the Code. He also argued, with photographs in point to support his argument, that similar fences appear along Broadway.

He seeks an order of this Board reversing the ARB's determination.

The Chairman noted that he had requested that a representative of the ARB be present at the instant meeting, but no representative appeared.

It appeared to the Board that the ARB had acted without proper substantiation for its decision, and without due regard for the reasonable opinions and wishes of the applicant, and, upon the Chairman's motion, duly seconded, the Board concluded unanimously that Mr. Giamelli should be permitted to proceed with the building of the fence, as requested.

There being no further business to come before the meeting, it was, upon motion duly made and seconded, unanimously adjourned.

A handwritten signature in black ink, appearing to read "George Rowe, Jr.", written in a cursive style.

George Rowe, Jr.